

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

FILED

December 7, 1999

Cecil Crowson, Jr.
Appellate Court Clerk

STEVEN DOUGLAS TUTT,

Appellant,

VS.

STATE OF TENNESSEE,

Appellee.

)
) C.C.A. NO. 01C01-9905-CC-00155
) (No. 13793 Below)
) MARSHALL COUNTY

) The Hon. William Charles Lee

) (Dismissal of Writ of Error Coram Nobis)

) AFFIRMED PURSUANT TO RULE 20

ORDER

This matter is before the Court upon the state's motion requesting that the judgment in the above-styled cause be affirmed pursuant to Rule 20, Tennessee Court of Criminal Appeals Rules. Having reviewed the petitioner's brief, the state's motion, and the record on appeal, the Court finds that the motion is well taken.

It appears from the record that on July 9, 1997, the petitioner pled guilty to rape of a child and was sentenced to 15 years. Subsequently, on December 29, 1998, the petitioner mailed this petition for writ of error coram nobis to the trial court clerk. In his petition, the petitioner contends that he did not learn of a medical report made by Our Kids Clinic until October of 1998, and that the report reflects that the victim denied that the petitioner had "penetrated her in a sexual way." No medical report is included in the record on appeal. He submits that if this information had been discovered prior to his guilty plea, he would not have agreed to enter the plea.

A petition for writ of error coram nobis must be dismissed as untimely unless it is filed within one year of the date on which the judgment of conviction became final in the trial court. See T.C.A. § 27-7-103; State v. Mixon, 983 S.W.2d 661, 670 (Tenn. 1999). In the present case, the petition is clearly barred by the statute of limitations applicable to petitions for writs of error coram nobis. Moreover, the petition does not allege facts which would warrant habeas corpus relief, nor is an error of law requiring reversal apparent from the record on appeal.

IT IS, THEREFORE, ORDERED that the state's motion to affirm the judgment of the trial court under Rule 20, Tennessee Court of Criminal Appeals Rules, is granted, and the judgment of the trial court is affirmed. It appearing that the petitioner is indigent, costs of these proceedings are taxed to the state.

THOMAS T. WOODALL, JUDGE

CONCUR:

DAVID H. WELLES, JUDGE

JERRY L. SMITH, JUDGE